THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 18036 of 1998

DATED: 27.06.2007

Between:-

K.S. Lingam s/o Mahanandi, aged about 48 years, Stores Supervisor,A.P.S.R.T.C. Podili Depot, Prakasam District.

… PETITIONER

And

The Depot Manager, Andhra Pradesh State Transport Corporation, Podili Depot, Podili, Prakasham District.

..RESPONDENT

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 18036 of 1998

O R D E R

The impugned order dated 27.08.1997 issued by the respondent imposing penalty of recovery of an amount of Rs. 26,724.28 ps. is questioned in this writ petition, as arbitrary and illegal.

The only contention urged before this Court by Sri A.V. Sesha Sai, learned counsel for the petitioner, is that the petitioner and Sri M. Nagabushanam, the then Depot Clerk, who was in-charge Stores Supervisor at Podili prior to the petitioner's posting thereat, were charge-sheeted for the same allegations, that while the petitioner had stated that it was the fault of Sri M.Nagabushanam, Sri M.Nagabushanam had contended to the contrary. Learned counsel would submit that questioning the very same order of punishment, Sri M. Nagabushanam had filed W.P. No. 21764 of 1997 before this Court and that this Court had allowed the said writ petition by order dated 11.09.1997 holding that since the impugned order was passed without conducting any enquiry, the impugned order was liable to be quashed. The petitioner would contend that similar to that of Sri M. Nagabushanam,

the impugned order was passed in the petitioner's case also without holding an enquiry and without there being any material to arrive at such a conclusion.

In the counter-affidavit, though a reference is made to the earlier punishments imposed on the petitioner, his specific allegation that no enquiry was held is not disputed.

Sri R. Manmadha Reddy, learned Standing Counsel, would submit that insofar as Sri M. Nagabushanam is concerned, an enquiry was subsequently held and thereafter the punishment of recovery of the amount was imposed on him and that the portion of the amount due from him was directed to be recovered in monthly installments.

Under Regulation 8 (1) (v), the penalty of recovery from pay, of the whole or part of any pecuniary loss caused to the Corporation by an employee's negligence or breach of orders, can lawfully be imposed. Regulation 12 (1) provides that, no order imposing any of the penalties specified in items (i) to (vi) of Clause (1) of Regulation 8 shall be passed except after the employee concerned is informed in writing of the proposal to take action against him and of the allegations on which action is proposed to be taken and is given an opportunity to make any representation he may wish to make, and such representation, if any, is taken into consideration by the authority imposing the penalty. It is only in respect of the punishments specified in items (vii) to (ix) of Clause (1) of Regulation 8 that an enquiry is required to be held prior to imposition of punishment.

In the present case the punishment of recovery of the amount from the pay, to the extent of pecuniary loss caused to the Corporation, is referable to Clause (v) of Regulation 8 and in view of Regulation 12(1), no enquiry is contemplated for imposition of such a punishment. Admittedly, the petitioner was issued a charge memo on 17.02.1997 and was asked to submit his explanation. Since the petitioner chose not to, the respondents have verified the stock position and had issued a show cause notice on 13.6.1997. Though the petitioner acknowledged receipt thereof he did not submit his explanation to the show cause notice and thereafter final orders of recovery was passed on 27.08.1997. The action of the respondents in passing the impugned order of punishment cannot be faulted nor can it be said to be discriminatory.

The mere fact that an enquiry was held in the case of Sri M. Nagabushanam would not confer any similar right on the petitioner herein, inasmuch as the statutory regulations do not contemplate the holding of an enquiry for imposition of the punishment of recovery of money to the extent of pecuniary loss caused to the Corporation. The action of respondents in passing the impugned order accords with the statutory regulations and does not necessitate interference by this Court under Article 226 of the Constitution of India.. The writ petition fails and is accordingly dismissed. No costs.

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RAMESH RANGANATHAN, J

Dated: 27.6.2007
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